

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SULLIVAN BROWN,

Defendant-Appellant.

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UNPUBLISHED

July 6, 2004

No. 237027

Wayne Circuit Court

LC No. 00-012996-01

ON REMAND

Before: O’Connell, P.J., and Jansen and Fort Hood, JJ.

PER CURIAM.

Our Supreme Court remanded this case to us<sup>1</sup> for further consideration of an evidentiary issue in light the recent holding in *Crawford v Washington*, \_\_\_ US \_\_\_; 124 S Ct 1354; 158 L Ed 2d 177 (2004). In *Crawford*, the United States Supreme Court held that the Confrontation Clause bars the introduction of an unavailable witness’s testimonial statements made to police during interrogation. 124 S Ct 1359.

Applying *Crawford* to this case, the introduction of Brandon Jenkins’ interview with police violated defendant’s constitutional right to confront the witness against him. *Id.* Nevertheless, the error was non-structural because it dealt only with the presentation of evidence to the jury, *People v Anderson*, 446 Mich 392, 405-406; 521 NW2d 538 (1994), so the error will not warrant reversal if it was harmless beyond a reasonable doubt. *People v Carines*, 460 Mich 750, 774; 597 NW2d 130 (1999). In this case, the prosecution carried its burden of demonstrating that the introduction into evidence of Jenkins’ police interview was harmless beyond a reasonable doubt. We affirm defendant’s conviction.

The evidence presented at trial included eyewitness testimony that defendant shot the victim in the middle of the day and then jumped into the front seat of a white Mercury Grand Marquis. The eyewitness testified that a taller, leaner accomplice also shot at the victim and jumped into the car’s back seat. Police, who happened on the scene moments after the shooting, followed the Grand Marquis until it stopped at a house. The occupant of the front passenger-side seat ran into the house. Police later drew defendant out of the house, and the eyewitness picked

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<sup>1</sup> *People v Brown*, \_\_\_ Mich \_\_\_; \_\_\_ NW2d \_\_\_ (Docket No. 124923, decided April 30, 2004).

him out of a lineup as the shorter and stockier shooter. The witness reported and later testified that he would never forget defendant because of the bullish look on his face while he was shooting.

Police found defendant's palm print on the passenger's side mirror of the Grand Marquis, and the eyewitness's description of the shorter and stockier shooter did not match the description of anyone else found in the house. Another witness testified that the victim and a female acquaintance of defendant got into an argument two days before the shooting in defendant's presence. Given the overwhelming evidence against defendant, the absence of the erroneously introduced statements would not have altered the jury's final verdict. Therefore, the introduction of the police interview into evidence had no possibility of adversely affecting defendant and was harmless beyond a reasonable doubt. *Carines, supra*.

Affirmed.

/s/ Peter D. O'Connell  
/s/ Kathleen Jansen  
/s/ Karen M. Fort Hood